Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Beall	Analyst:	William Koch	Bill Number:	AB 1079
Related Bills:	See Legislative History	Telephone:	845-4372	Introduced Date:	February 18, 2011
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Higher Education Costs Credit

SUMMARY

This bill would provide a tax credit for qualified costs at the University of California or the California State University.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

PURPOSE OF THE BILL

It appears the purpose of this is bill is to encourage attendance at the University of California or the California State University.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would be effective immediately upon enactment and would be specifically operative for taxable years beginning on or after January 1, 2011.

ANALYSIS

FEDERAL/STATE LAW

Existing federal and state laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Current federal law provides two types of education-related tax credits: the American Opportunity Credit and the Lifetime Learning Credit. The American Opportunity Credit allows qualified taxpayers a credit of 100 percent for the first $2,000 of qualified tuition and related expenses, and a 25 percent credit for the next $2,000 of qualifying expenses, for a total tax credit of $2,500 each year per student. Up to 40 percent of the tax credit is refundable. The tax credit is phased out for taxpayers with modified adjusted gross income between $80,000 and $90,000 for single filers and between $160,000 and $180,000 for joint filers. The tax credit may be claimed for an eligible student for only the first four years of postsecondary education.

Board Position:			Executive Officer	Date
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The Lifetime Learning Credit allows taxpayers a nonrefundable credit of 20 percent of the first $10,000 of qualified tuition for a total of up to $2,000 per taxable year. The tax credit is phased out for taxpayers with modified adjusted gross income between $50,000 and $60,000 for single filers and between $100,000 and $120,000 for joint filers. There is no limit to the number of years that the tax credit may be claimed.

Current state law does not provide any education-related tax credits.

THIS BILL

For taxable years beginning on or after January 1, 2011, this bill would provide a personal income tax credit of up to $500 per eligible student, per taxable year, for qualified costs paid or incurred by a qualified taxpayer at a qualified education institution. The aggregate amount of the credit for all taxable years per each eligible student would be $2,000.

This bill would provide the following definitions:

- “Eligible student” means the taxpayer, the taxpayer’s spouse, or any dependent of the taxpayer.
- “Qualified costs” means tuition and fees required for enrollment or attendance of an eligible student at a qualified educational institution and expenditures for course materials.
- “Qualified taxpayer” means a taxpayer who pays or incurs qualified costs at any qualified educational institution during the taxable year and who has a modified adjusted gross income for that taxable year of at least $80,001 and not more than $100,000 for an individual or married persons filing joint returns.
- “Qualified educational institution” means the University of California or the California State University.
- “Course materials” means books, supplies, and equipment needed for a course of study, whether or not the materials are purchased from the qualified educational institution as a condition of enrollment or attendance.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

The bill lacks a definition of “modified adjusted gross income,” which would be necessary to determine whether a taxpayer is a “qualified taxpayer.”

In addition, the phrase “supplies, and equipment needed for a course of study,” should be defined to obtain certainty as to what exactly would qualify as “course materials.” The absence of a definition to clarify this phrase could lead to disputes with taxpayers and would complicate the administration of this credit.

LEGISLATIVE HISTORY

AB 1174 (Alquist, et al, 2001/02) would have created a refundable tax credit for the costs of higher education. This bill was held in the Assembly Revenue and Taxation Committee.

AB 1441 (Wayne, 1997/98) would have created a tax credit for university tuition and fees. This bill was held in the Assembly Revenue and Taxation Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York.* These states were selected due to their similarities to California's economy, business entity types, and tax laws. With the exception of *New York*, none of these states provide a tax credit similar to that proposed by this bill.

New York provides a college tuition expenses tax credit of up to $400 per student, per year.

FISCAL IMPACT

If the implementation considerations discussed above are resolved, this bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 1079 For Taxable Years Beginning On or After January 1, 2011 Enactment Assumed After June 30, 2011 ($ in Millions)		
2011-12	2012-13	2013-14
-$28	-$18	-$19

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Pro: Some taxpayers could say that this bill is necessary to help offset the recent, unprecedented increases in the costs of college tuition.

Con: Some taxpayers could say that with the state's current fiscal crisis, additional tax expenditures should be avoided.

LEGISLATIVE STAFF CONTACT

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